

AMENDATORY SECTION

WAC 230-17-170 Petition and hearing for stay of the summary suspension.

- (1) When the director summarily suspends a license or permit, the affected licensee or permittee may petition for a "stay of suspension" as explained in RCW 34.05.467 and 34.05.550(1).
- (2) We must receive the petition in writing within fifteen days of service of the summary suspension.
- (3) Within ((seven)) fourteen days of receipt of the petition, the presiding officer holds a hearing. If an administrative law judge is not available, the chairperson of the commission designates a commissioner to be the presiding officer. If the parties agree, they may have a continuance of the seven-day period.
- (4) The stay hearing must use brief adjudicative proceedings as set out in WAC 230-17-150. At the hearing, the only issues are whether the presiding officer:
 - (a) Should grant a stay; or
 - (b) Modify the terms of the suspension.
- (5) Our argument at the hearing consists of the information we used to issue the summary suspension and we may add any information we find after we order the suspension.
- (6) At the hearing, the licensee or permittee has the burden of demonstrating by clear and convincing evidence all of the following:
 - (a) The licensee or permittee is likely to prevail upon the merits of the evidence at hearing; and
 - (b) Without relief, the licensee or permittee will suffer irreparable injury. For purposes of this section, elimination of income from licensed activities must not be deemed irreparable injury; and
 - (c) The grant of relief will not substantially harm other parties to the proceedings; and
 - (d) The threat to the public safety or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.
- (7) The initial stay of the summary suspension order whether given orally or in writing takes effect immediately unless stated otherwise.

[Statutory Authority: RCW 9.46.070. WSR 07-21-156 (Order 615), § 230-17-170, filed 10/24/07, effective 1/1/08.]